AO 120 (Rev. 08/10)

TO:

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REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK

In Compliand filed in the U.S. Dis		: 15 U.S.C. § 1116 you are hereby advised that a court ac	on the following	
☐ Trademarks or ☐	Patents. (the patent ac	ction involves 35 U.S.C. § 292.):		
DOCKET NO.	DATE FILED	U.S. DISTRICT COURT		
PLAINTIFF	,	DEFENDANT		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRA	ADEMARK	
1	<u> </u>			
2				
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DATE INCLUDED	INCLUDED BY	he following patent(s)/ trademark(s) have been included:	☐ Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRA	HOLDER OF PATENT OR TRADEMARK	
1				
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	ve—entitled case, the followin	g decision has been rendered or judgement issued:		
DECISION/JUDGEMENT				
CLERK	(B	Y) DEPUTY CLERK	DATE	

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:24-cv-22149-LEIBOWITZ

TUSHB.	ARV	INC
TOSHD.	ADI.	IIIV.

Plaintiff,

FLEEROSE,

v.

Defendant.	
	/

ORDER

THIS CAUSE is before the Court on Defendant's unopposed Motion to Consolidate [ECF No. 22] (the "Motion"), filed on October 16, 2024. In the Motion, Defendant asks the Court to consolidate this declaratory judgment action with previously consolidated copyright infringement actions – *Tushbaby, Inc. v. The Corporations, Limited Liability Companies, and Unincorporated Associations Identified on Schedule A*, No. 1:24-cv-21136-LEIBOWITZ (S.D. Fla.) (hereinafter "consolidated action").

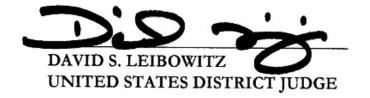
The district court has "inherent managerial power" to "control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." Young v. City of Augusta, Ga. Through DeVaney, 59 F.3d 1160, 1168 (11th Cir. 1995) (citation omitted). Under Federal Rule of Civil Procedure 42, a district court "may" consolidate cases where they "involve a common question of law or fact." Fed. R. Civ. P. 42(a)(2); see Newman v. Eagle Bldg. Techs., 209 F.R.D. 499, 501 (S.D. Fla. 2002). These cases share both.

In the instant case, Plaintiff seeks a declaratory judgment that it did not infringe upon Defendant's patent [ECF No. 1]. Infringement, albeit copyright infringement, is also at issue in Defendant's counterclaims asserted in the consolidated action. *See Tushbaby, Inc. v. The Corporations, Limited Liability Companies, and Unincorporated Associations*, No. 1:24-cv-21136-LEIBOWITZ (S.D. Fla.),

Answer to Second Amended Complaint, ECF No. 90 at 21–22 (Sept. 16, 2024). Even though the legal theory of infringement differs in the actions, the product alleged to be infringed is the same. Further, Plaintiff's factual allegations in both complaints are very similar. *Compare* ECF No. 1 *with* ECF No. 76 (consolidated case). And, finally, both cases involve the same Plaintiff, the same Defendant, and the same object of their infringement dispute. Consequently, consolidation is appropriate. Accordingly, and upon due consideration, it is hereby **ORDERED AND ADJUDGED** as follows:

- 1. The Motion [ECF No. 22] is GRANTED.
- 2. The Clerk of Court shall CONSOLIDATE this case Tushbaby, Inc. v. Fleerose, No. 1:24-cv-22149-LEIBOWITZ (S.D. Fla.) with consolidated case Tushbaby, Inc. v. The Corporations, Limited Liability Companies, and Unincorporated Associations Identified on Schedule A, No. 1:24-cv-21136-LEIBOWITZ (S.D. Fla.). All future pleadings, motions, or other papers shall be filed in case number 1:24-cv-21136-LEIBOWITZ and bear only the caption of that case.
- 3. All motions pending in case number 1:24-cv-22149 are **DENIED** as moot and must be refiled in case number 1:24-cv-21136.
- 4. *The Clerk of Court* is directed to CLOSE this case (1:24-cv-22149).

DONE AND ORDERED in the Southern District of Florida on October 17, 2024.



cc: counsel of record